

**Minutes  
Bar Harbor Planning Board  
Special Session  
July 11, 2007**

***Members present: Kay Stevens-Rosa, Chair; Jennifer Booher, Vice-Chair; Mike Gurtler; Kevin Cochary***

***Also present: Anne Krieg, Planning Director; Kris Hultgren, Staff Planner; Lee Bragg, Esq., Town Attorney***

**I. CALL TO ORDER — 5:49 p.m.**

**II. EXCUSED ABSENCES**

***Mr. Gurtler moved to excuse Ms. Stanley. Mr. Cochary seconded, the Board voted unanimously on the motion.***

**III. ELECTION OF OFFICERS**

***Mr. Gurtler made a motion to nominate Ms. Stevens-Rosa as Chair. Ms. Booher seconded, the Board voted unanimously on the motion.***

***Mr. Gurtler made a motion to nominate Ms. Booher as Vice-Chair. Mr. Cochary seconded, the Board voted unanimously on the motion.***

***Mr. Gurtler made a motion to nominate Ms. Stanley as Secretary. Mr. Cochary seconded, the Board voted unanimously on the motion.***

**IV. ADOPTION OF AGENDA**

***Mr. Cochary made a motion to adopt the agenda. Ms. Booher seconded, the Board voted unanimously on the motion.***

**V. REGULAR BUSINESS**

**A. Deliberations - Machias Savings Bank**

**Project location:** 100 Cottage Street, Bar Harbor Tax Map 104, Lots 230 & 231

**Application:** Construct a 9,000 SF commercial building.

**Applicant:** A4 Architects, William Hanley

**Application #** SP-07-01

Ms. Stevens-Rosa recused herself and turned the Chair to Ms. Booher.

Ms. Krieg asked Mr. Bragg if it is appropriate to reopen the public hearing due to the discussions regarding the MaineDOT permit.

Mr. Bragg said no but if the Board decided that after hearing the update it felt the public should have a chance to comment the Board can reopen the public hearing.

Ms. Krieg updated the Board on her discussions with Mr. Mattson of MaineDOT and his requirement that the applicant improve the corner of Cottage Street and Holland Avenue before it receives a certificate of occupancy. This would require an encroachment onto the property of the Kayak store on the corner of Cottage Street and Holland Avenue in order to improve the turning radius.

Mr. Gurtler asked if MaineDOT inquired about the other entrance to Holland Ave. from Mount Desert Street. Ms. Krieg said MaineDOT was focused on the intersection of Cottage Street and Holland Avenue.

Mr. Gurtler asked how the town would enforce a condition that required the applicant to direct its delivery trucks down Cottage Street. Ms. Krieg said that during construction using Cottage St. is appropriate due to the narrowness of Holland Avenue and enforcement of delivery trucks would be difficult.

Mr. Cochary inquired as to whether the Kayak store property owner has been contacted.

Ms. Krieg said the town had not commenced any conversation with the property owner due to only recently hearing the MaineDOT condition from Mr. Mattson.

Mr. Bragg advised the Board that they could treat this as a MaineDOT issue entirely on the assumption that people will have the chance to comment to MaineDOT. The Board could also reopen the public hearing to give people a chance to comment to the Board. The Board could also reopen the public hearing to give the applicant a chance to comment or the Board could ask the applicant about the issue without opening the public hearing.

Ms. Krieg said even if the Board was silent on the decision the applicant would still have to get the MaineDOT permit.

Mr. Cochary expressed concern that the Kayak store has not had an opportunity to weigh in about the MaineDOT permit.

Ms. Booher said she is inclined to treat this as a MaineDOT issue.

Mr. Gurtler asked what would happen to the project if the Kayak property owner did not want to give up any of his land to allow the applicant to improve the turning radius.

Mr. Bragg said the applicant needing a MaineDOT permit to move ahead with a project is no different than approving something in the shoreline zone that needs a DEP permit. Without the permit the project would not move forward.

Bill Hanley, speaking for the applicant, questioned how the Board can make the MaineDOT permit a condition of approval.

Ms. Krieg reminded the applicant that the LUO says that site plan approval from the Board does not relieve the applicant of its duty to receive all state permits before construction.

Ms. Krieg suggested the Board look at the condition that the applicant use Cottage Street for all construction purposed and for deliveries after construction.

Ms. Booher said she wanted the condition to stay.

Mr. Haywood, speaking for the applicant, said the bank has few deliveries and would direct traffic down Cottage Street.

Mr. Haywood said construction will not commence until 7:30am.

Mr. Haywood expressed concern about the term “any future improvements” in the condition that required the bank to improve the corner of Cottage Street and Holland Avenue.

The Board agreed to remove the words “any future” from the condition.

***Mr. Gurtler made a motion to approve the application as outlined in the draft decision with the change made to condition #2 regarding the language “any future”. Mr. Cochary seconded, the Board voted unanimously on the motion.***

#### **B. Board Discussion on pending appeal AB-07-09**

Ms. Krieg explained the Town of Bar Harbor’s appeal of the Planning Board’s decision to approve the subdivision application of Chuck Dawes. Ms. Krieg explained that the appeal centered on the modification of standard granted by the Board for second means of egress without granting an easement to access the town’s property and also to correct the record of some of the testimony given to the Board that may or may not have influenced their decision.

Ms. Krieg asked the Board if they wanted to secure their own legal council due to Mr. Bragg representing the town during this appeal.

Ms. Stevens-Rosa expressed some regret about not being more persistent in regards to considering some of the public testimony.

Mr. Gurtler said he did not feel like the town should spend money on additional counsel for the Board.

Mr. Bragg explained that the Town Charter contains a clause that says the Town Attorney will represent the Town Council in cases where both the Town Council and Planning Board are involved.

Mr. Cochary expressed some discomfort with requiring Mr. Dawes to give up a right-of-way to the town without compensation.

Mr. Gurtler expressed some discomfort with how the process of appealing the Planning Board was conducted by the Town Council.

Mr. Bragg, speaking on behalf of the Town Council, explained that the Town Council made the decision to appeal on the last day available to appeal.

Ms. Krieg encouraged the Planning Board to attend the Appeals Board meeting on August 14 and weigh in on the matter.

**VI. PLANNING DIRECTOR'S REPORT**

Ms. Krieg updated the Board on the status of the Comprehensive Plan and said they were being printed and distributed.

**VII. BOARD MEMBER COMMENTS & ITEMS FOR NEXT AGENDA**

Mr. Gurtler said he is unable to attend the Planning Board meeting on Wednesday, July 18.

**VIII. ADJOURNMENT – 7:33**

Ms. Booher made a motion to adjourn the meeting. Mr. Cochary seconded, the Board voted unanimously on the motion.

*Signed as approved:*

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Sarah Stanley, Secretary  
Planning Board, Town of Bar Harbor

Date